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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/753,758	01/07/2004	Mark Grossmeyer	000291-010210US	5684

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EXAMINER

RIDER, JUSTIN W

ART UNIT	PAPER NUMBER
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2626

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/23/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/753,758

Applicant(s)

GROSSMEYER ET AL.

Examiner

Justin W. Rider

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to communications: Application filed 07 January 2004. Claims 1-5 are pending.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1 & 2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, the limitation beginning on line 14 is unclear as to what exactly is being attempted, the examiner is therefore interpreting this claim limitation as one that places the remote control in VCR mode, which would be inherent based on the fact that prior limitations in claim 1 are specifically addressed toward programming a VCR's record functions.

In claim 2, the language is sufficiently confusing so as to interpret the claim as performing an actuation (e.g. button press) to input a user command.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Jonathan Takiff**, **'Electronic Living: Innovations allow anyone to use a VCR'**, **Providence Journal**, **Aug. 18, 1988. pg. F-03** referred to as **Takiff** hereinafter in view of **Innotech Systems Inc.**, **'inVoca Deluxe users guide'**, 2000 referred to as **Innotech** hereinafter.

Claim 1: **Takiff** discloses a process of operating an audio assisted remote control, including:

i. providing the audio assisted programmable remote control with a clock for receiving and displaying date and time of day (**Abstract**, *'The electronic friend tells you when and how to select the date...programming entries are confirmed both audibly and visually – the latter on a liquid crystal display, '*);

ii. providing an audio output to the user for announcing queries sequentially by day, hour, minute and AM/PM for start and stop times (**Takiff** discloses the use of providing audio commands to assist the user in programming a VCR for recording (**Abstract**, *'The remote simplifies VCR programming by audibly instructing and visually prompting users through the process.'* *'The electronic friend then tells you when and how to select the date, the on and off times...'*, the use of said audio commands to provide day, hour, and minute and AM/PM is an intended use in which the disclosed invention in **Takiff** is fully capable.);

iv. providing an input for receiving answers to the queries (**Abstract**);

v. upon receiving an input answering the queries sufficient for programming including start and stop times, announcing to the user the start and stop times utilizing the audio output to review remote control programming (**Abstract**, *'Your programming entries are confirmed both audibly and visually...'*);

vi. queuing the user to activate the VCR for recording (**Abstract**, *'After you've programmed a complete set of commands, just point the remote at the VCR and hit the "send" button.'*); and

vii. placing the voice activated programmable remote control addressed to the VCR for remote controlling of the VCR (Inherency, *see 112 rejection above*).

However, **Takiff** fails to, but **Innotech** does, specifically disclose providing the audio assisted programmable remote control with a memory for retaining settings of the controller (P. 29, *'inVoca uses a special non-volatile memory to remember voice commands, macros, priority press and device setup.'*) including record start times and record stop times.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to include the teachings of **Innotech** in the process of **Takiff** because, *'this ensures that inVoca will retain its programming even when [batteries are being changed]'* (p. 29).

Claim 2: **Takiff** discloses a process as per claim 1 above, further including providing an input to actuate a repeat of a query absent an input answering the query (**Abstract**, *'After you've programmed a complete set of commands, just point the remote at the VCR and hit the "send" button.'*).

Claim 4: **Takiff** discloses a process of operating an audio assisted remote control, including:

i. providing a clock for receiving and displaying date and time of day (**Abstract**, *'The electronic friend tells you when and how to select the date...programming entries are confirmed both audibly and visually – the latter on a liquid crystal display.'*);

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ii. providing an audio output for the user for announcing presumptions (**Abstract**, *'The remote simplifies VCR programming by audibly instructing and visually prompting users through the process.'* *'The electronic friend then tells you when and how to select the date, the on and off times...'*); and

iii. providing an input for receiving corrections (**Abstract**);

iv. announcing to the user the presumption utilizing the audio output and inquiring whether the presumption is correct utilizing the audio output (**Abstract**, *'Your programming entries are confirmed both audibly and visually...'*);

However, **Takiff** fails to, but **Innotech** does, specifically disclose receiving an answer to the announced presumption at the input; and in the event that the presumption is incorrect, receiving correction to the presumption at the input (p. 23, *'You may be asked to repeat the command several times before inVoca is convinced that it has a good sample. If the command or keyword is similar to one already recorded, inVoca will ask user to "Choose a different word."*).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to include the teachings of **Innotech** in the process of **Takiff** because of the reasons outlined above.

However, **Takiff** fails to, but **Innotech** does, specifically disclose providing the audio assisted programmable remote control with a memory for retaining settings of the controller (P. 29, *'inVoca uses a special non-volatile memory to remember voice commands, macros, priority press and device setup.'*) including record start times and record stop times and making a presumption for VCR programming based on information in the controller (p. 2, Macros

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Explained, explains how once a user trains a macro, a spoken command will trigger the device to make a series of presumptions based on stored settings in the controller.).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to include the teachings of **Innotech** in the process of **Takiff** because of the reasons outlined above.

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Takiff**, in view of **Innotech** as applied to claim 1 above, and further in view of **Seel (USPN 6,336,000)** referred to as **Seel** hereinafter.

Claim 3: **Takiff**, in view of **Innotech** discloses a process as per claim 1 above, however failing to, but **Seel** does, specifically disclose wherein the process alerts the user to insert a recording media (col. 5, lines 3-4).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to include the teachings of **Seel** in the process of **Takiff**, in view of **Innotech** because it provides a method allowing a user to record and review said recording and subsequently keep recording or re-record over previous recording (col. 1, lines 50-53).

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Takiff** in view of **Innotech** as applied to claim 4 above, and further in view of **Tony Han, 'ProgramPal – a smart VCR recording controller', 1998, http://innovexpo.itee.uq.edu.au/1998/thesis/hanit/conf_pap.pdf** referred to as **Han** hereinafter.

Claim 5: **Takiff** discloses a process as per claim 4 above, however failing to, but **Han** does disclose automatic VCR recording based on presumptions, further including:

i. making a presumption for VCR programming start record time utilizing the present date from the clock (p. 1, Introduction, *'The ProgramPal is a type of smart object, which learns users' patters of use, then predicts a desirable future outcome.'*).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to include the teachings of **Han** in the process of **Takiff**, in view of **Innotech** because it provides a way of automatically recording a users programs based on previous patterns, which allows pre-recording of programs without the hassle of carrying out a series of complicated steps (**Abstract**).

ii. announcing to the user the presumption for the start record time (**Takiff** discloses the use of providing audio commands to assist the user in programming a VCR for recording (**Abstract**, *'The remote simplifies VCR programming by audibly instructing and visually prompting users through the process.'* *'The electronic friend then tells you when and how to select the date, the on and off times...'*, the use of said audio commands to provide an indication of recording time is an intended use in which the disclosed invention in **Takiff** if fully capable.);

iii. inquiring whether are the presumption for this start record time is correct utilizing the audio output (**Abstract**, *'Your programming entries are confirmed both audibly and visually...'*);

However, **Takiff** fails to, but **Innotech** does, specifically disclose receiving an answer to the announced presumption of the start record time at the input; and in the event that the start record time is incorrect, receiving a corrected start record time at the input (p. 23, *'You may be asked to repeat the command several times before inVoca is convinced that it has a good sample.*

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If the command or keyword is similar to one already recorded, inVoca will ask user to "Choose a different word.").

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to include the teachings of **Innotech** in the process of **Takiff** because of the reasons outlined above.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. **O'Donnell et al. (USPN 6,650,248)** discloses a system for programming a universal remote using a display menu and voice commands; **Bush et al. (USPN 6,397,186)** and **Risi (US 2002/0044226 A1)** disclose a hands-free voice-operated remote control; .

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin W. Rider whose telephone number is (571) 270-1068. The examiner can normally be reached on Monday - Friday 7:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David R. Hudspeth can be reached on (571) 272-7843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

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J.W.R.
16 April 2007



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